

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHELLEY D. ANDREWS,

Plaintiff,

V.

WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,
and DAN BAUMANN.

Defendants.

CASE NO. C15-5871BHS

**ORDER DENYING
DEFENDANT'S MOTION
WITHOUT PREJUDICE AND
REMANDING**

This matter comes before the Court on Defendant Washington State Department of Social and Health Services' ("DSHS") motion for summary judgment (Dkt. 22). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby rules as follows:

I. PROCEDURAL HISTORY

On October 20, 2015, Plaintiff Shelley Andrews (“Andrews”) filed a complaint against DSHS and Dan Baumann (“Baumann”) in Mason County Superior Court for the State of Washington. Dkt. 3 at 5–7. Andrews asserts a cause of action for common law negligence and multiple violations of her civil rights under 42 U.S.C. § 1983. *Id.*

1 On December 1, 2015, DSHS removed the matter to this Court. Dkt. 1. In the
 2 removal notice, DSHS listed Baumann's address in Olympia, Washington. *Id.* at 4.

3 On May 9, 2016, the Court granted DSHS's motion to dismiss Andrews' 1983
 4 claims. Dkt. 18.

5 On November 22, 2016, DSHS filed a motion for summary judgment. Dkt. 22.
 6 DSHS sent notice to Baumann via email pursuant to a private "e-service agreement." *Id.*
 7 at 15. On December 21, 2016, Andrews responded. Dkt. 28. On December 30, 2016,
 8 DSHS replied. Dkt. 29.

9 II. DISCUSSION

10 "[W]here a district court has dismissed all claims over which it has original
 11 jurisdiction, it may *sua sponte* decline to exercise supplemental jurisdiction over
 12 remaining state law claims." *See Sikhs for Justice "SFJ", Inc. v. Facebook, Inc.*, 144 F.
 13 Supp. 3d 1088, 1096 (N.D. Cal. 2015) (quotation omitted). The relevant federal statute
 14 provides that:

15 The district courts may decline to exercise supplemental jurisdiction over a
 16 claim under subsection (a) if-

- 17 (1) the claim raises a novel or complex issue of State law,
- 18 (2) the claim substantially predominates over the claim or claims
 over which the district court has original jurisdiction,
- 19 (3) *the district court has dismissed all claims over which it has
 original jurisdiction*, or
- (4) in exceptional circumstances, there are other compelling reasons
 for declining jurisdiction.

20 28 U.S.C. § 1337(c) (emphasis added).

21 "[E]xercising discretion and deciding whether to decline, or to retain,
 22 supplemental jurisdiction over state law claims when any factor in subdivision (c) is

1 implicated is a responsibility that district courts are duty-bound to take seriously.” *Acri v.*
 2 *Varian Associates, Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997), *supplemented*, 121 F.3d 714
 3 (9th Cir. 1997), *as amended* (Oct. 1, 1997). “If the federal claims are dismissed before
 4 trial, the state law claims ‘should’ be dismissed.” *Grant v. Alperovich*, 993 F. Supp. 2d
 5 1356, 1366 (W.D. Wash. 2014) (quoting *United Mine Workers v. Gibbs*, 383 U.S. 715,
 6 726 (1966)). *See also Carnegie–Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7 (1988).

7 In this case, the Court *sua sponte* remands the remaining state law claim.

8 Although trial is set for a little over a month from now, the Court finds that the remaining
 9 claim belongs in state court. Even though supplemental jurisdiction exists over non-
 10 diverse defendants, federal court should not be called upon to answer state law questions
 11 between non-diverse parties when the federal questions were dismissed early in the
 12 proceeding. In other words, the Court should have remanded the matter with or soon
 13 after ruling on DSHS’s motion to dismiss the federal claims. Regarding the current
 14 motion, DSHS’s motion has merit, but the Court is hesitant, when it is unnecessary, to
 15 pass upon the duties a state agency has to train its social workers. Andrews also touches
 16 upon a possible discovery dispute that could potentially delay the motion as well as trial
 17 in this matter. In light of all of these factors, the Court declines to exercise supplemental
 18 jurisdiction over Andrews’ remaining claim.

19 **III. ORDER**

20 Therefore, it is hereby **ORDERED** that DSHS’s motion for summary judgment is
 21 **DENIED without prejudice** (Dkt. 22), the Court declines to exercise supplemental
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1 jurisdiction, and the Clerk shall **REMAND** this matter to Mason County Superior Court
2 and close this case.

3 Dated this 23rd day of January, 2017.

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BENJAMIN H. SETTLE
United States District Judge